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on February 24, 2005

Rod D. Baker, Reg. No. 35,434

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OFFICE OF PETITIONS

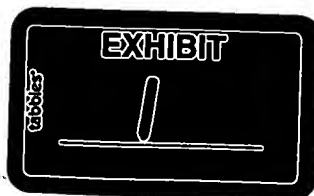
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent App. Serial No.: 09/910,415
Filed: 07/20/2001
Applicant: MEYERS, J.
Title: MASK FOR USE WITH EYEGLASSES

Declaration of DIANE L. WEBER under 37 CFR 1.68
In Support of Petition to Revive Unintentionally Abandoned Patent Application

1. I, Diane L. Weber, currently am an employee of the law firm of Lewis, Meyers & Scheid, LLC, in Denver, Colorado. At all times relevant to the petition in this matter, I was an employee of Lewis, Meyers & Scheid LLC, or of its predecessors in interest (Webb & Lewis, LLC, Webb, Lewis & Meyers, LLC, and Lewis & Meyers, LLC).

2. I was employed with the foregoing law firms in the capacity of an office administrator and docketing clerk. As docketing clerk, I was the person responsible for implementing and maintaining the firm's docketing system, whereby the professionals in the firm were advised and warned of future and impending due dates and deadlines for pending client matters. The firm runs a computerized docketing system using ABACUS® docketing software. I believe myself to be a docketing clerk of at least reasonable competence and diligence, and generally have satisfied all the expectations made of me regarding the firm's docketing.



3. As clerk and office administrator, during the times relevant to this petition I kept abreast of the firm's docket, and regularly reminded the attorneys of deadlines and due dates pertaining to pending matters.

4. In September, 2003, the offices of Webb, Lewis & Meyers, LLC moved to a new address in Denver, Colorado. One aspect of this move was the physical relocation of the practice of the firm's only registered patent attorney, Mr. Glenn Webb, from his office in Conifer, Colorado, to the firm's new location. Prior to the firm move in September 2003, Mr. Webb sporadically produced lists of deadlines to be incorporated into the docketing system. Upon information and belief, Mr. Webb also maintained a separate docketing system at his home office for patent prosecution matters handled exclusively by him. One of the goals of the firm's relocation was to consolidate docketing functions at a single location and system.

5. Thus, in December 2003 and January 2004, certain patent prosecution matters handled by Mr. Webb had not yet been entered into the master docketing system of Webb, Lewis & Meyers that was maintained by me; rather, Mr. Webb remained primarily responsible for docketing such matters, pending their entry and "switchover" into the firm's master docketing database. I was not at anytime provided a "master" docketing list from Mr. Webb to incorporate into our docketing system.

6. After the office relocation had been accomplished, I became the person primarily responsible for processing the firm's incoming mail, including entry of the receipt into the docketing system and directing the incoming correspondence to the attention of the appropriate firm employee. This was my primary resource for obtaining and docketing Mr. Webb's deadlines.

7. On or about January 8, 2004, our office received from the United States Patent and Trademark Office a Notice of Abandonment of the patent application of Judith Meyers, Serial Number 09/910,415. I immediately transmitted a copy of the Notice of

Abandonment to Mr. Webb by e-mail. My e-mail to Mr. Webb also inquired about the Notice of Abandonment, as Mr. Webb earlier had indicated that a timely response had been filed. I also solicited instruction about what date to docket for the matter. A true and correct copy of the foregoing e-mail transmission is attached hereto as Exhibit A.

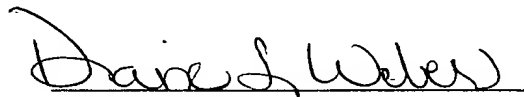
8. In response to my inquiry, Mr. Webb stated that a continuation application had been filed, and that "There is nothing to docket on this at this time." See Exhibit A. Pursuant to Mr. Webb's directions, I took no action in the case. Accordingly, at that time I did not create an entry in the firm's master docketing system for the Meyers '415 application.

9. Upon information and belief, our firm received no further communications from the United States Patent and Trademark Office pertaining to the Meyers '415 application or any continuation application there from.

10. Upon information and belief, Mr. Webb did not file any continuing application pertaining to the Meyers '415 application. I believe his representation that he had filed such a continuing application was a falsehood.

11. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that further these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United states Code, and that such willful false statements may jeopardize the validity of the above referenced application or any patent issuing thereon.

Date: 2/14/05


Diane L. Weber

Diane Weber

From: Glenn L. Webb [glenn@webblewis.com]
Sent: Friday, January 09, 2004 8:43 AM
To: 'Diane Weber'
Subject: RE: Judith Meyers - Notice of Abandonment

we filed a continuation. There is nothing to docket on this at this time.

From: Diane Weber [mailto:Diane@webblewis.com]
Sent: Thursday, January 08, 2004 4:46 PM
To: 'Glenn L. Webb'
Subject: Judith Meyers - Notice of Abandonment

Glenn -- Attached is a Notice of Abandonment. I thought you filed something on this??? Please let me know what the status is and what date to docket on this.

Thanks.

Diane L. Weber, Secretary
Webb Lewis & Meyers LLC
2300 Fifteenth Street, Suite 320
Denver, CO 80202
(303) 534-5040 ext 201
(303) 534-5039 fax

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1/11/2005

